IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22301 of 2004

Between:

Thota Kiran Kumar, S/o.Sambaiah, Garimella,

Business, Manchiryal (M), Adilabad District.

..... PETITIONER

AND

1 The Commissioner, Manchiryal
Muncipality, Adilabad District.
2 Damodarlal Bung, S/o.Not known,
Manchiryal, Adilabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of mandamus declaring that the inaction of he Respondent No.1 herein in stopping the construction of the R2 herein in the petitioner's land admeasuring 7472 Sq Yards situated in S/No 763, Garimella Village and Manchiryal Mandal, Adilabad Dist. as bad, arbitrary, illegal, unjust and unreasonable and consequently direct the R1 herein to take appropriate steps to stop the construction and also demolish the illegal construction in petitioner's land.

For the Petitioner: MR.V.NAGESWARA RAO, Advocate.

For the Respondent No.1: MR.THIMMA REDDY, Standing Counsel for Manchiryal Municipality.

For the Respondent No.2: --

The Court at the admission stage made the following :

ORDER:

The petitioner claims to be in possession and enjoyment of dry land admeasuring 7472 square yards in survey No.763 of Garimella village of Adilabad District, by virtue of an agreement of sale-cum-General Power of Attorney, dated 21-9-2004. His grievance is that the second respondent is making illegal constructions on the said land, and though he brought the said fact to the notice of the first respondent-Municipality by way of a representation dated 19-11-2004, no action has been taken by the first respondent. Seeking a direction to the first respondent to take appropriate action in stopping the constructions being made by the second respondent on the land in question, the petitioner filed this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the first respondent-Municipality, and with their consent the writ petition is finally disposed of at the stage of admission.

Simply because the first respondent-Municipality is made a party, this writ petition does not lie, inasmuch as the issue whether the second respondent who is a private party is making illegal constructions in the alleged land of the petitioner or not, involves disputed question of fact which cannot be decided in a proceeding under Article 226 of the Constitution of India, and the same can be gone into only in a properly constituted civil proceeding. The petitioner is at liberty to move appropriate Forum.

With the above observation, the writ petition is dismissed. No costs.

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N.V. RAMANA, J

Date: 03-12-2004

Svv

To

1 The Commissioner, Manchiryal Muncipality, Adilabad District.

2 Two CD copies.